

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KENNETH LA' MOTTE,
Plaintiff,
v.
PECOLA JONES,
Defendant.

Case No. [23-cv-03022-JSC](#)

**ORDER DENYING MOTION FOR
TEMPORARY RESTRAINING ORDER**

Re: Dkt. No. 1

Plaintiff, an inmate at the Contra Costa County Jail, has filed a motion for a temporary restraining order (“TRO”) to stop Defendants Pecola Jones and the Ke’ron La’Motte Foundation (“the Foundation”) from continuing to use Plaintiff’s last name for the Foundation. (ECF No. 1.) According to Plaintiff, Jones is the mother of their deceased son, Ke’ron La’Motte, for whom the Foundation is named. (*Id.* at 3.) Plaintiff also seeks the Foundation’s financial records, damages, and the criminal prosecution of Defendants under California law. (*Id.* at 2-3.)

The TRO cannot be granted for at least two reasons. First, Plaintiff has not filed a complaint, which he must do in order to start a case in federal court. *See* Fed. R. Civ. P. 3. The Clerk has notified Plaintiff that he must file a complaint or the case will be dismissed. (ECF No. 4.) Per the notice, the deadline to do so is July 26, 2023. (*Id.*) Along with the notice, the Clerk mailed Plaintiff a complaint form, instructions, and a postage-paid return envelope. (*Id.*)

Second, Plaintiff has not indicated that he has provided notice of his motion for a TRO to Defendants, and a TRO may be granted without written or oral notice to the adverse party or that party's attorney only if: (1) it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss or damage will result to the applicant before the adverse party or the party's attorney can be heard in opposition, and (2) the applicant's attorney certifies in writing the efforts, if any, which have been made to give notice and

1 the reasons supporting the claim that notice should not be required. *See* Fed. R. Civ. P. 65(b).
2 Plaintiff has not certified in writing his efforts, if any, to notify Defendants of the TRO or the
3 reasons notice should not be required.

4 For these two reasons, the motion for a TRO is DENIED.

5 This denial is without prejudice to Plaintiff filing a renewed motion for a TRO when or
6 after he files a complaint, provided he complies with the requirements of Rule 65(b). The Court
7 further notes that Plaintiff has not cited authority, nor is the Court aware of any, prohibiting
8 Defendants from using his son's name for the Foundation even though he and his son share the
9 same last name. If he files a new TRO motion, he must provide such authority. In addition,
10 Plaintiff is advised that this Court does not have authority to order a criminal prosecution.
11 Plaintiff must present any request for a criminal prosecution to the District Attorney's Office of
12 the county in which the alleged crimes took place; that is the office that decides whether to file
13 criminal charges under California law.

14 Plaintiff is granted leave to proceed in forma pauperis in a separate order.

15 This order disposes of docket number 1.

16 **IT IS SO ORDERED.**

17 Dated: June 23, 2023

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JACQUELINE SCOTT CORLEY
United States District Judge